

Multiple Agency Fiscal Note Summary

| | |
|-----------------------------|---------------------------------------|
| Bill Number: 1734 HB | Title: Low-proof beverages/tax |
|-----------------------------|---------------------------------------|

Estimated Cash Receipts

| Agency Name | 2021-23 | | | 2023-25 | | | 2025-27 | | |
|---------------------------|--|-------------|-------|----------|-------------|-------|----------|-------------|-------|
| | GF-State | NGF-Outlook | Total | GF-State | NGF-Outlook | Total | GF-State | NGF-Outlook | Total |
| Department of Revenue | Non-zero but indeterminate cost and/or savings. Please see discussion. | | | | | | | | |
| Liquor and Cannabis Board | Non-zero but indeterminate cost and/or savings. Please see discussion. | | | | | | | | |
| Total \$ | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 | 0 |

Estimated Operating Expenditures

| Agency Name | 2021-23 | | | | 2023-25 | | | | 2025-27 | | | |
|---------------------------|---------|----------|-------------|---------|---------|----------|-------------|-------|---------|----------|-------------|-------|
| | FTEs | GF-State | NGF-Outlook | Total | FTEs | GF-State | NGF-Outlook | Total | FTEs | GF-State | NGF-Outlook | Total |
| Department of Revenue | .2 | 35,100 | 35,100 | 35,100 | .0 | 0 | 0 | 0 | .0 | 0 | 0 | 0 |
| Liquor and Cannabis Board | .5 | 0 | 0 | 151,961 | .0 | 0 | 0 | 0 | .0 | 0 | 0 | 0 |
| Total \$ | 0.7 | 35,100 | 35,100 | 187,061 | 0.0 | 0 | 0 | 0 | 0.0 | 0 | 0 | 0 |

Estimated Capital Budget Expenditures

| Agency Name | 2021-23 | | | 2023-25 | | | 2025-27 | | |
|---------------------------|---------|-------|-------|---------|-------|-------|---------|-------|-------|
| | FTEs | Bonds | Total | FTEs | Bonds | Total | FTEs | Bonds | Total |
| Department of Revenue | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| Liquor and Cannabis Board | .0 | 0 | 0 | .0 | 0 | 0 | .0 | 0 | 0 |
| Total \$ | 0.0 | 0 | 0 | 0.0 | 0 | 0 | 0.0 | 0 | 0 |

Estimated Capital Budget Breakout

NONE

| | | |
|---------------------------------------|---------------------------------|---|
| Prepared by: Cheri Keller, OFM | Phone: (360) 584-2207 | Date Published: Final 1/31/2022 |
|---------------------------------------|---------------------------------|---|

Department of Revenue Fiscal Note

| | | |
|-----------------------------|---------------------------------------|--|
| Bill Number: 1734 HB | Title: Low-proof beverages/tax | Agency: 140-Department of Revenue |
|-----------------------------|---------------------------------------|--|

Part I: Estimates

☐

No Fiscal Impact

Estimated Cash Receipts to:

Non-zero but indeterminate cost and/or savings. Please see discussion.

Estimated Expenditures from:

| | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|----------------------|---------|---------|---------|---------|---------|
| FTE Staff Years | | 0.4 | 0.2 | | |
| Account | | | | | |
| GF-STATE-State 001-1 | | 35,100 | 35,100 | | |
| Total \$ | | 35,100 | 35,100 | | |

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact. Factors impacting the precision of these estimates, and alternate ranges (if appropriate), are explained in Part II.

Check applicable boxes and follow corresponding instructions:

☒

If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete entire fiscal note form Parts I-V.

☐

If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia, complete this page only (Part I).

☒

Capital budget impact, complete Part IV.

☒

Requires new rule making, complete Part V.

| | | |
|--------------------------------------|-----------------------|------------------|
| Legislative Contact: Rachelle Harris | Phone: (360) 786-7137 | Date: 01/25/2022 |
| Agency Preparation: Anna Yamada | Phone: (360) 534-1519 | Date: 01/31/2022 |
| Agency Approval: Valerie Torres | Phone: (360) 534-1521 | Date: 01/31/2022 |
| OFM Review: Cheri Keller | Phone: (360) 584-2207 | Date: 01/31/2022 |

Request # 1734-1-1

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe, by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

CURRENT LAW:

"Spirits" means any beverage containing alcohol that is obtained by distillation, including wines with more than 24% alcohol by volume.

The regular retail sales tax does not apply to sales of spirits unopened in the original container. However, it does apply to sales of spirits by the drink (glass).

There are two types of spirits (liquor) taxes: a spirits liter tax and a spirits sales tax.

The spirits liter tax is a tax on the sales of spirits in the original container and is based on the volume sold. The tax rate for consumers is \$3.7708 per liter. The tax rate for on-premises retailers such as restaurants and bars is \$2.4408 per liter.

The spirits sales tax is a tax on the selling price of spirits in their original container. The tax rate for sales to consumers is 20.5%. The tax rate for on-premises retailers is 13.7%.

PROPOSAL:

This bill creates a new category of alcoholic beverages, "low-proof beverage," which is defined as any beverage that is 16 ounces or less, containing more than 0.5% and less than 7% alcohol by volume, but that excludes wine, malt beverages, or malt liquor.

This bill does the following:

Exempts low proof beverages from the spirit license issuance fee administered by the Liquor and Cannabis Board (LCB).

Exempts low proof beverages from spirits taxes. Retail sales and use taxes will apply to low-proof beverages.

Creates a new tax:

Low proof beverage will be taxed at a rate of \$1.19 per gallon, and the new tax is administered by Liquor Control Board.

The tax is imposed on:

- A spirits distributor on sales to spirits retailers,
- A distillery or craft distillery that self-distributes low proof beverages to retailers or directly to consumers, and
- A holder of a spirits out-of-state certificate with a direct shipment endorsement that self-distributes to spirits retailers.

Low proof beverages will continue to be subject to the following taxes :

- Business & occupation (B&O) taxes apply to the manufacture and/or sale of low-proof beverages.
- Retail sales tax on low-proof beverages sold by restaurants, bars or other establishments that have an on-premises license.

EFFECTIVE DATE:

The bill takes effect 90 days after final adjournment of the session in which it is enacted.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency , identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources . Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived . Explain how workload assumptions translate into estimates . Distinguish between one time and ongoing functions .

ASSUMPTIONS:

The market share of low-proof beverages in Washington is unknown.

DATA SOURCES:

Liquor and Cannabis Board

REVENUE ESTIMATES:

The revenue impact for this proposal is indeterminate.

Based on research and limited information currently available to the department, there are several spirits-based products currently being marketed in Washington that would qualify under the proposal. Examples of the known products :

- Joia Spirits Sparkling Gimlet (6% alcohol by volume, ABV)
- Cutwater Vodka Soda (5% ABV)
- Gin & Tonic Pre-mixed Cocktails (6.2% ABV)
- Ketel One Botanical Vodka Spirits Peach (3.6% ABV)
- High Noon Hard Seltzer Vodka Pineapple (4.5% ABV)

Under this proposal, these products will no longer be taxed as spirits. They become subject to retail sales and use tax. There is no information on these products' market share in Washington; therefore, the loss of spirits tax revenue and the increase in retail sales and use tax revenue is unknown.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived . Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing

ASSUMPTIONS:

This legislation will affect approximately 200 taxpayers.

FIRST YEAR COSTS:

The Department will not incur any costs in Fiscal Year 2022.

SECOND YEAR COSTS:

The Department will incur total costs of \$35,100 in Fiscal Year 2023. These costs include :

Labor Costs - Time and effort equates to 0.37 FTE.

- Computer system testing, monitoring, and maintenance.
- Review reports, scrutinize data, examine accounts, and make corrections as necessary.
 - Create a Special Notice and identify publications and information that needs to be created or updated on the Department's website.
- Respond to letter ruling requests, email inquiries, and phone calls.
- Amend an administrative rule.

ONGOING COSTS:

There are no ongoing costs.

Part III: Expenditure Detail

III. A - Expenditures by Object Or Purpose

| | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|----------------------------|---------|----------|----------|---------|---------|
| FTE Staff Years | | 0.4 | 0.2 | | |
| A-Salaries and Wages | | 21,200 | 21,200 | | |
| B-Employee Benefits | | 7,500 | 7,500 | | |
| E-Goods and Other Services | | 4,100 | 4,100 | | |
| J-Capital Outlays | | 2,300 | 2,300 | | |
| Total \$ | | \$35,100 | \$35,100 | | |

III. B - Detail: *List FTEs by classification and corresponding annual compensation . Totals need to agree with total FTEs in Part I and Part IIIA*

| Job Classification | Salary | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|--------------------|---------|---------|---------|---------|---------|---------|
| EMS BAND 4 | 122,633 | | 0.0 | 0.0 | | |
| EXCISE TAX EX 3 | 59,688 | | 0.1 | 0.1 | | |
| MGMT ANALYST4 | 70,956 | | 0.0 | 0.0 | | |
| TAX INFO SPEC 4 | 64,332 | | 0.2 | 0.1 | | |
| TAX POLICY SP 2 | 72,756 | | 0.0 | 0.0 | | |
| TAX POLICY SP 3 | 82,344 | | 0.0 | 0.0 | | |
| TAX POLICY SP 4 | 88,644 | | 0.0 | 0.0 | | |
| WMS BAND 3 | 104,295 | | 0.0 | 0.0 | | |
| Total FTEs | | | 0.4 | 0.2 | | |

III. C - Expenditures By Program (optional)

NONE

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

None.

Part V: New Rule Making Required

Identify provisions of the measure that require the agency to adopt new administrative rules or repeal/revise existing rules .

Should this legislation become law, the Department will use the expedited process amend WAC 458-20-195 Rule, titled: "Taxes, Deductibility". Persons affected by this rule-making would include licensed distilleries and craft distilleries making and selling "low proof beverages."

Request # 1734-1-1

Individual State Agency Fiscal Note

| | | |
|-----------------------------|---------------------------------------|--|
| Bill Number: 1734 HB | Title: Low-proof beverages/tax | Agency: 195-Liquor and Cannabis Board |
|-----------------------------|---------------------------------------|--|

Part I: Estimates

☐ No Fiscal Impact

Estimated Cash Receipts to:

| |
|--|
| Non-zero but indeterminate cost and/or savings. Please see discussion. |
|--|

Estimated Operating Expenditures from:

| | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|---|---------|---------|---------|---------|---------|
| FTE Staff Years | 0.0 | 1.0 | 0.5 | 0.0 | 0.0 |
| Account | | | | | |
| Liquor Revolving Account-State 501-1 | 0 | 151,961 | 151,961 | 0 | 0 |
| Total \$ | 0 | 151,961 | 151,961 | 0 | 0 |

Estimated Capital Budget Impact:

NONE

The cash receipts and expenditure estimates on this page represent the most likely fiscal impact . Factors impacting the precision of these estimates , and alternate ranges (if appropriate) , are explained in Part II.

Check applicable boxes and follow corresponding instructions:

- ☒ If fiscal impact is greater than \$50,000 per fiscal year in the current biennium or in subsequent biennia , complete entire fiscal note form Parts I-V.
- ☐ If fiscal impact is less than \$50,000 per fiscal year in the current biennium or in subsequent biennia , complete this page only (Part I).
- ☒ Capital budget impact, complete Part IV.
- ☐ Requires new rule making, complete Part V.

| | | |
|--------------------------------------|-----------------------|------------------|
| Legislative Contact: Rachelle Harris | Phone: 360-786-7137 | Date: 01/25/2022 |
| Agency Preparation: Colin O'Neill | Phone: (360) 522-2281 | Date: 01/26/2022 |
| Agency Approval: Aaron Hanson | Phone: 360-664-1701 | Date: 01/26/2022 |
| OFM Review: Cheri Keller | Phone: (360) 584-2207 | Date: 01/26/2022 |

Part II: Narrative Explanation

II. A - Brief Description Of What The Measure Does That Has Fiscal Impact

Briefly describe by section number, the significant provisions of the bill, and any related workload or policy assumptions, that have revenue or expenditure impact on the responding agency.

Section 1(26) - "low-proof beverage" is defined as "any beverage that is 16 ounces or less and that contains more than .5 percent alcohol by volume and less than seven percent alcohol by volume, but does not include wine, malt beverages, or malt liquor."

Section 2(4c) - The 17% spirits license issuance fee does not apply on sales of low-proof beverages.

Section 3 – Low proof beverages are taxed at a rate of \$1.19 cents /gallon.

- Section 3 constitutes a new section in RCW chapter 66.24.
- 3(1) A spirits distributor is required to pay the low-proof beverages tax on sales of low-proof beverages to spirits retailers.
- 3(2) A distillery or craft distillery that self-distributes is required to pay the tax on sales to spirits retailers.
- 3(3) A distillery or craft distillery that sells low-proof beverages directly to consumers is required to pay the low-proof beverages tax.
- 3(4) The holder of a spirits out-of-state certificate with a direct shipment endorsement that self-distributes under the terms of its license shall pay the low-proof spirits tax on sales to spirits retailers.

Section 4(3c) is struck from the new bill. This just deletes obsolete language.

Section 4(3f) – clarifying language that states that the spirit distributor fees do not apply to the sale of low-proof beverages.

Section 5(10c) – New language specifying that for the purposes of this subsection, "mini-bottles of spirits" means an original factory-sealed container holding not more than 50 milliliters of spirits.

II. B - Cash receipts Impact

Briefly describe and quantify the cash receipts impact of the legislation on the responding agency, identifying the cash receipts provisions by section number and when appropriate the detail of the revenue sources. Briefly describe the factual basis of the assumptions and the method by which the cash receipts impact is derived. Explain how workload assumptions translate into estimates. Distinguish between one time and ongoing functions.

ASSUMPTIONS: The revenue impact for this proposal is indeterminate. Based on research and limited information available, four spirits-based products currently being marketed in Washington that would qualify under the proposal are :

- Joia Spirits Sparkling Gimlet (6% alcohol by volume, ABV)
- Cutwater Vodka Soda (5% ABV)
- Gin & Tonic Pre-mixed Cocktails (6.2% ABV)
- Ketel one Botanical Vodka Spirits Peach (3.6% ABV)

Under the proposed law, these four products will no longer be taxed as spirits, which will incur a loss of spirits tax revenue; however, the amount of revenue loss is unknown. Other than the examples above, spirits-based 'low proof beverages' do not appear to be marketed in this state; therefore, the amount of revenue gain from the proposed law will be unknown.

II. C - Expenditures

Briefly describe the agency expenditures necessary to implement this legislation (or savings resulting from this legislation), identifying by section number the provisions of the legislation that result in the expenditures (or savings). Briefly describe the factual basis of the assumptions and the method by which the expenditure impact is derived. Explain how workload assumptions translate into cost estimates. Distinguish between one time and ongoing functions.

INFORMATION TECHNOLOGY DIVISION:

There will be onetime staff costs in FY23 to implement the bill as a number of forms and reports in the agency's spirits application will need to be modified to allow reporting and collecting of the \$1.19 /gallon low-proof beverages tax.

1.0 FTE IT App Development - Senior/Specialist - \$150,236/yr (\$149,166 salary/benefits, \$1,070 in associated costs). Onetime costs in FY23 of \$1,725 for equipment purchases.

Note: the agency will not be able to implement these changes by July 1, 2022. Target date is no sooner than January 1, 2023.

Part III: Expenditure Detail

III. A - Operating Budget Expenditures

| Account | Account Title | Type | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|----------|--------------------------|-------|---------|---------|---------|---------|---------|
| 501-1 | Liquor Revolving Account | State | 0 | 151,961 | 151,961 | 0 | 0 |
| Total \$ | | | 0 | 151,961 | 151,961 | 0 | 0 |

III. B - Expenditures by Object Or Purpose

| | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|--------------------------------------|---------|---------|---------|---------|---------|
| FTE Staff Years | | 1.0 | 0.5 | | |
| A-Salaries and Wages | | 114,984 | 114,984 | | |
| B-Employee Benefits | | 34,182 | 34,182 | | |
| C-Professional Service Contracts | | | | | |
| E-Goods and Other Services | | 1,095 | 1,095 | | |
| G-Travel | | | | | |
| J-Capital Outlays | | 1,700 | 1,700 | | |
| M-Inter Agency/Fund Transfers | | | | | |
| N-Grants, Benefits & Client Services | | | | | |
| P-Debt Service | | | | | |
| S-Interagency Reimbursements | | | | | |
| T-Intra-Agency Reimbursements | | | | | |
| 9- | | | | | |
| Total \$ | 0 | 151,961 | 151,961 | 0 | 0 |

III. C - Operating FTE Detail: *List FTEs by classification and corresponding annual compensation . Totals need to agree with total FTEs in Part I and Part IIIA*

| Job Classification | Salary | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|--|---------|---------|---------|---------|---------|---------|
| IT App Development - Senior/Specialist | 114,984 | | 1.0 | 0.5 | | |
| Total FTEs | | | 1.0 | 0.5 | | 0.0 |

III. D - Expenditures By Program (optional)

| Program | FY 2022 | FY 2023 | 2021-23 | 2023-25 | 2025-27 |
|---------------------------------------|---------|---------|---------|---------|---------|
| Information Technology Division (070) | | 151,961 | 151,961 | | |
| Total \$ | | 151,961 | 151,961 | | |

Part IV: Capital Budget Impact

IV. A - Capital Budget Expenditures

NONE

IV. B - Expenditures by Object Or Purpose

NONE

IV. C - Capital Budget Breakout

Identify acquisition and construction costs not reflected elsewhere on the fiscal note and describe potential financing methods

NONE

IV. D - Capital FTE Detail: *List FTEs by classification and corresponding annual compensation . Totals need to agree with total FTEs in Part IVB*

NONE

Part V: New Rule Making Required